

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	
)	

**REPLY COMMENTS OF A BROADCASTER FOR THE PROMOTION OF
CHANNEL SHARING ARRANGEMENTS**

As noted in its initial comments, Broadcaster for the Promotion of Channel Sharing Arrangements (“Broadcaster”) provides television service to millions of viewers in one of the largest – and for the purposes of the incentive auction, most important – markets.¹ By counsel,² Broadcaster submits this reply to urge the Commission to permit city of license changes to accommodate channel sharing arrangements with other broadcasters in the same Designated Market Area (“DMA”) in the context of this nationally critical, one-of-a-kind auction.

The comments show that maximizing participation in the reverse auction by willing broadcasters is fundamental to the Commission’s ability to secure extremely valuable spectrum in a purely voluntary process.³ The comments also demonstrate that certain broadcasters in some

¹ Comments of a Broadcaster for the Promotion of Channel Sharing Arrangements, GN Docket No. 12-268 (Jan. 25, 2013).

² Broadcaster continues its desire to remain anonymous at this time. Accordingly, this reply is being filed by counsel pursuant to the procedures set forth in the Commission’s December 18, 2012 Public Notice, DA 12-2040.

³ See, e.g., Consumer Electronics Association, GN Docket No. 12-268, at 30-31 (Jan. 25, 2013); Comments of Telecommunications Industry Association, GN Docket No. 12-268, at 6

of the most strategic markets in the nation are considering participation in the auction, but are not interested in simply exiting the business. Rather, these parties seek to continue to provide valuable over-the-air services through channel sharing arrangements as contemplated by Congress. Provided these potential auction participants can locate suitable partners, channel sharing could achieve the significant win-win of contributing much-needed spectrum in the reverse auction *and* preserving viable over-the-air television services to the public.

The comments show, however, that the Commission's tentative proposal to mandate that channel sharing participants continue to meet existing community of license service obligations would seriously frustrate these twin congressional goals. To succeed, broadcasters interested in contributing to the auction and maintaining service "must have willing partners."⁴ But for some interested parties, a rule that prohibited a station from changing its community of license in the context of this auction would, as a practical matter, preclude it from participating at all. For example, due to the location of stations' transmission facilities and their communities of licenses in the DMA, Broadcaster does not appear to have a viable partner whose facilities Broadcaster could share, nor a likely partner who would be willing to operate from Broadcaster's station.⁵ Thus, the community of license rule as proposed by the FCC would force otherwise willing stations in the nation's most important markets, like Broadcaster, to sit on the sidelines rather than participate in the auction.

(Jan. 25, 2013); Comments of Verizon and Verizon Wireless, GN Docket No. 12-268, at 20 (Jan. 25, 2013).

⁴ Expanding Opportunities for Broadcasters Coalition, Docket No. 12-268, at 22 (Jan. 23, 2013) ("Coalition").

⁵ Comments of Broadcaster, at 3.

As Broadcaster and others point out, permitting stations to change communities of license within their DMAs is fully consistent with congressional intent, Section 307(b) of the Communications Act, and Commission policy. Entravision Holdings, LLC rightly observes that “Congress and the Commission are actively encouraging at least some broadcasters to abandon service to their communities altogether.”⁶ If *abandonment* of service complies with law, a lesser and (theoretical) “loss” of service – i.e., loss of service to one community but continued service to another community – would inherently result in a preferable allocation of television service. In contrast, rigidly mandating continued service to the existing community of license by a station that Congress would otherwise have allowed to go totally dark would seriously undermine Congress’ objective to secure additional spectrum for other uses.

Broadcaster agrees with other commenters that city of license changes should be permitted to accommodate a channel sharing arrangement only among stations located in the same DMA. This limitation will ensure broadcasters interested in participating in the auction through channel sharing will have sufficient flexibility to partner with other in-market stations, without disrupting the composition of individual DMAs.⁷

Broadcaster and other commenters demonstrate that the Commission can best fulfill key policy of objectives of Congress – the reallocation of spectrum for new state-of-the-air purposes and the preservation of a viable, free television service – by eliminating regulatory barriers for willing broadcasters to participate in the voluntary auction. Thus, Broadcaster urges the

⁶ Comments of Entravision Holdings, LLC, GN Docket No. 12-268, at 10 (Jan. 25, 2013). *See also* Comments of Coalition, at 15.

⁷ Broadcaster agrees with DIRECTV and DISH Network that a channel sharing arrangement should not result in a change to a station’s DMA. *See* Joint Comments of DIRECTV and DISH Network, Docket No. 12-268 at 4-5 (Jan. 25, 2013). However, the DBS operators do not posit any basis for precluding a community of license change within a station’s existing DMA.

Commission to permit stations to change their communities of license to facilitate sharing arrangements with other stations in their DMAs.

Respectfully submitted,

BROADCASTER FOR THE PROMOTION
OF CHANNEL SHARING ARRANGEMENTS

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